IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 10859 of 2007(P)

IA 10447/06 IN OS.2370/1998 of I ADDL.M.C.,TRIVANDRUM
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PETITIONER:

M/S.NAVEENA, NARMADA SHOPPING COMPLEX,
KOWDIAR, THIRUVANANTHAPURAM, REPRESENTED
BY ITS MANAGING PARTNER.

BY ADV. SRI.M.R.ANANDAKUTTAN
SMT.M.HEMALATHA
SRI.R.S.MADHU
SRI.MAHESH ANANDAKUTTAN

RESPONDENTS:

M/S.NARMADA CONSUMER STORES (PVT) LTD.,
KOWDIAR, THIRUVANANTHAPURAM REPRESENTED BY ITS
MANAGING DIRECTOR.

BY ADV. SRI.M.BALAGOVINDAN(B/O)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

Petitioner's Exts:

Ext.P1 true copy of plaint O.S.No.2370/98 filed by the respondent.

Ext.P2 true copy of written statement filed by defendants 1, 3 to 5 in the suit.

Ext.P3 true copy of commission application filed by the petitioner herein.

Ext.P4 true copy of objection to Ext.P3 application on 17.1.2007.

Ext.P5 true copy of order dated 26.2.2007 in I.A. 10447/2006 in O.S. No.2370/1998.

Ext.P6 true copy of the commission report dated 4.12.98 in O.S.1830/98.

M.N.Krishnan, J.

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W.P(C).No.10859 of 2007

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Dated this the 10th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking to set aside Ext.P5 order. After hearing both sides, I find that the question involved in the suit is whether the defendants are holding the property on a licence arrangement with the plaintiff.

2. The defendants would contend that they are lessees of the property. Result of the suit depends upon the position whether the property is held as a licence or lease. If the plaintiff fails to prove the same, then naturally, he will be out of court. If it is found that it is a lease arrangement, then so many other questions may arise and no relief can be granted in the suit.

3. Therefore all the rights that the defendants are entitled to claim are reserved and the present Writ Petition is dismissed. It is further held that if the court feels necessary to permit the defendants to adduce evidence in order to find out whether the

alleged transaction is a lease or licence, that may be permitted and if anything is found to be reviewed at that stage, the court is at liberty to pass appropriate orders.

M.N.Krishnan,
Judge.

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